

**To:** CN=Erin Foresman/OU=R9/O=USEPA/C=US@EPA[]  
**Cc:** CN=Tom Hagler/OU=R9/O=USEPA/C=US@EPA[]  
**From:** CN=Karen Schwinn/OU=R9/O=USEPA/C=US  
**Sent:** Thur 10/25/2012 10:31:23 PM  
**Subject:** Re: Bdcp 404

I guess I was sloppy in how I talked about it with him today since I hadn't thought thorough this piece in awhile. We segued into this when he said, basically, that it didn't matter that there weren't alternative Ops in CM1 as it wasn't part of their 404 consideration. The letter we send on this may be a decent place to be clear on what we think on this topic.

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**From:** Erin Foresman  
**To:** Karen Schwinn  
**Cc:** Tom Hagler  
**Date:** 10/25/2012 04:20 PM MDT  
**Subject:** Re: Bdcp 404

Hey Karen,  
Correct, just Monday I talked to Mike about this and he agreed with me that operations are likely to have a larger impact on aquatic habitat than fill impacts. Maybe the devil is in the details. Perhaps Mike is assuming that by the time it gets to him, the water quality impacts will be addressed by State Board though the 401 certification and the water quality objectives. If analyses for the delta tunnel operations show that state water quality standards will be exceeded/violated, SWRCB will not be able to issue a 401 cert -- Corps won't be able to issue a 404 permit. Nepstad has said before that the Corps is unlikely to deny a permit on WQ grounds w/o support from the certification. This is different than identifying a LEDPA. I'm just trying to think of where Mike is coming from on this. I'm v. confused.

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I work a part time schedule (M 7:30a - 4:00p, T - F 7:30 - 2:00p)

From: Karen Schwinn/R9/USEPA/US  
To: Erin Foresman/R9/USEPA/US@EPA, Tom Hagler/R9/USEPA/US@EPA,  
Date: 10/25/2012 03:08 PM  
Subject: Bdcp 404

At Nawi's suggestion, I called Mike Jewell to ask that he not send the letter. Of course, he said no. But he also said a couple things that I found surprising and/or disturbing -

He said pressure is coming from himself to do this, not DWR or SF. He wants to move process along. And he thinks it puts Corps in a good spot.

He believes CM 1 will be/is a "corridor" concept with tiering a la HSR. When I asked whether they'd do an EIS later, he said they'd do NEPA but that they weren't going to say any more now on that.

And the kicker, he doesn't see Ops as a 404 issue at all and they will not consider WQ impacts in selecting the LEDPA! (They will regulate under Rivers and Harbors re: any navigation issues).

Erin - this last pt seems counter to your previous discussions with them, no?

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